

THE UNITED STATES DISTRICT COURT
THE EASTERN DISTRICT OF MICHIGAN
SOUTHERN DIVISION

JERRY L. COCHRANE

Plaintiff,

Case No. 06-12504

vs.

HONORABLE PAUL D. BORMAN
HONORABLE STEVEN D. PEPE

JOSEPH WILSON, et al.

Defendants.

AMENDED
ORDER REGARDING DKT. #10 AND DKT. #12

On August 7, 2006, Plaintiff filed his Motion To File Supplemental Documents, which was denied October 16, 2006 (Dkt. ##6, 9).¹ On November 2, 2006, Plaintiff filed a Motion to Show Cause indicating that the U.S. Marshals have failed to serve Defendants notwithstanding an order directing service without prepayment of costs (Dkt. #4) and seeking court appointed counsel (Dkt. #10). All pretrial matters were referred to the undersigned on June 13, 2006, pursuant to 28 U.S.C. § 636 (b)(1)(A).

For the reasons indicated below, IT IS ORDERED THAT:

¹ Plaintiff subsequently stated in his response to the Court's October 16, 2006, Order to Show Cause that he does not disagree with the ruling regarding his "mis-named pleading" (Dkt. #11). He indicated that he was not attempting to add any new issues or new claims, but rather to supply the Court and Defendants with copies of the evidence he would offer at trial. Indeed, Plaintiff stated that he "accepts the dismissal of the Plaintiff's Motion to File Supplemental Documents." Having adequately responded to the October 16, 2006, Order to Show Cause, Plaintiff is not required to submit any further documentation regarding this issue.

1. A review of the docket reveals that while Plaintiff has received an order directing service without prepayment of costs (Dkt. #4), service has not occurred. Therefore, Plaintiff's Motion to Show Cause is GRANTED as it pertains to a request for service. The undersigned will reorder the U.S. Marshals to effectuate service.²

2. Plaintiff seeks to have this Court appoint an attorney to assist him with his case. Under 28 U.S.C. § 1915(e)(1), a federal court may request counsel to represent an indigent plaintiff. 28 U.S.C. § 1915(e)(1); *Reneer v. Sewell*, 975 F.2d 258, 261 (6th Cir. 1992). Yet, appointment of counsel for an indigent party is a privilege justified only under exceptional circumstances. *Lavado v. Keohane*, 992 F.2d 601, 606 (6th Cir. 1993). To determine whether exceptional circumstances necessitating the appointment of counsel are present, courts consider the type of case involved, the ability of the plaintiff to represent himself, the complexity of the factual and legal issues, and whether the plaintiff's claims are frivolous or have an extremely small likelihood of success. *Id.*; *Reneer*, 975 F.2d at 261; *Mars v. Hanberry*, 752 F.2d 254, 256 (6th Cir. 1985). Based on several considerations, Plaintiff's claim is denied.

Plaintiff's complaint focuses on claims of malicious prosecution, fabrication of documents and false imprisonment inflicted by Defendants. The factual issues raised by Plaintiff are clear and straightforward. Plaintiff has demonstrated in his complaint and subsequent filings that he understands the legal issues and can present these issues to a Court in a satisfactory manner. Also, it must be noted that there is a grave scarcity of attorneys available to represent indigent persons in this Court. This Court has no funds to secure attorneys for indigent parties in

² On December 8, 2006, Plaintiff filed a motion to compel Defendants to accept service (Dkt. #12). Because that motion is rendered moot by this order, it is hereby DENIED.

civil cases, and has great difficulty finding attorneys willing to volunteer time to serve in *pro bono* cases without payment. Their services must be carefully rationed to the most appropriate cases.

Accordingly, Plaintiff's motion for appointment of counsel is DENIED.

SO ORDERED.

Date: December 13, 2006
Ann Arbor, Michigan

s/Steven D. Pepe
United States Magistrate Judge

*CERTIFICATE OF SERVICE

I hereby certify that on December 18, 2006, I electronically filed the foregoing paper with the Clerk Court using the ECF system which will send electronic notification to the following: not applicable, and I hereby certify that I have mailed by United States Postal Service the paper to the following non-ECF participants: Jerry Cochran, 210173, St. Louis Correctional Facility, 8585 N. Croswell Rd., St. Louis, MI 48880

s/ James P. Peltier
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